

53-2-101. Title.

This part is known as the "Emergency Services and Homeland Security Act."

53-2-102. Definitions.

As used in this part:

(1) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America or this state.

(2) "Director" means the division director appointed under Section 53-2-103.

(3) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena, or technological hazard.

(4) "Division" means the Division of Emergency Services and Homeland Security created in Section 53-2-103.

(5) "Expenses" means actual labor costs of government and volunteer personnel, including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment, cost of equipment operation, cost of materials, and the cost of any contract labor and materials.

(6) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(7) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

(8) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

(9) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, and safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(10) "Technological hazard" means any hazardous materials accident, mine

accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

**53-2-103. Division of Emergency Services and Homeland Security --
Creation -- Director -- Appointment -- Term -- Compensation.**

(1) There is created within the department the Division of Emergency Services and Homeland Security.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

53-2-104. Division duties -- Powers.

(1) The division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to emergency services and homeland security matters as directed by the commissioner;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials in designing local emergency action plans;

- (vi) coordination of federal, state, and local emergency activities;
 - (vii) coordination of emergency operations plans with emergency plans of the federal government;
 - (viii) coordination of search and rescue activities;
 - (ix) coordination of rapid and efficient communications in times of emergency; and
 - (x) other measures necessary, incidental, or appropriate to this part.
- (2) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist them in preparing emergency succession plans and procedures under Title 63, Chapter 5b, Emergency Interim Succession Act.

53-2-105. Hazardous materials emergency -- Recovery of expenses.

(1) (a) The director may recover from those persons whose negligent actions caused the hazardous materials emergency, expenses incurred by state agencies directly associated with a response to a hazardous materials emergency taken under authority of this part, Title 63, Chapter 5, Emergency Management, or Title 63, Chapter 5a, Disaster Response and Recovery.

(b) The payment of expenses under this subsection does not constitute an admission of liability or negligence in any legal action for damages.

(c) The director may obtain assistance from the attorney general or a county attorney of the affected jurisdiction to assist the director in recovering expenses and legal fees.

(d) Any recovered costs shall be deposited in the General Fund as dedicated credits to be used by the division to reimburse state and local government agencies for the costs they have incurred.

(2) (a) If the cost directly associated with emergency response exceeds all available funds of the division within a given fiscal year, the division, with approval from the governor, may incur a deficit in its line item budget.

(b) The Legislature shall provide a supplemental appropriation in the following year

to cover the deficit.

(c) The division shall deposit all costs associated with any emergency response that are collected in subsequent fiscal years into the General Fund.

(3) Any political subdivision may enact local ordinances pursuant to existing statutory or constitutional authority to provide for the recovery of expenses incurred by the political subdivision.

53-2-106. Expenditures authorized by "state of emergency" declaration.

(1) (a) The director may use funds authorized under Title 63, Chapter 5a, Disaster Response and Recovery, to provide:

- (i) transportation to and from the disaster scene;
- (ii) accommodations at the disaster scene for prolonged incidents; and
- (iii) emergency purchase of response equipment and supplies in direct support of a disaster.

(b) The commissioner may authorize the use of funds accrued under Title 63, Chapter 5a, only if the governor declares a state of emergency as provided in Title 63, Chapter 5a, Disaster Response and Recovery.

(2) These funds may not be allocated to a political subdivision unless the political subdivision has demonstrated that it is beyond its capability to respond to the disaster and that no other resources are available in sufficient amount to meet the disaster.

53-2-107. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) "Reimbursable expenses," as used in this section, means those reasonable costs incidental to search and rescue activities, not including any salary or overtime paid to any person on a regular or permanent payroll, including permanent part-time employees, of any agency or political subdivision of the state, including:

- (a) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;
- (b) replacement and upgrade of search and rescue equipment;

- (c) training of search and rescue volunteers; and
- (d) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The program shall be funded from the following revenue sources:

- (i) any voluntary contributions to the state received for search and rescue operations;

- (ii) monies received by the state under Section 23-19-42 and Section 41-22-34; and

- (iii) appropriations made to the program by the Legislature.

(b) All funding for the program shall be nonlapsing.

(4) The director shall use the monies to reimburse counties for all or a portion of each county's reimbursable expenses for search and rescue operations subject to:

- (a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2-104;

- (b) monies available in the program; and

- (c) rules made under Subsection (7).

(5) Program monies may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with this act, establishing:

- (a) the costs that qualify as reimbursable expenses;

- (b) the procedures of agencies to submit expenses and be reimbursed; and

- (c) a formula to govern the distribution of available monies between counties based on:

- (i) the total qualifying expenses submitted;
- (ii) the number of search and rescue incidents per county population;
- (iii) the number of victims that reside outside the county; and
- (iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

53-2-108. Search and Rescue Advisory Board -- Members -- Compensation.

(1) There is created the Search and Rescue Advisory Board consisting of seven members appointed as follows:

(a) two representatives designated by the Utah Search and Rescue Association, one of whom is from a county with a population of 75,000 or more; and one from a county having a population of less than 75,000;

(b) three representatives designated by the Utah Sheriff's Association, at least one of whom shall be a member of a voluntary search and rescue unit operating in the state, at least one of whom shall be from a county having a population of 75,000 or more, and at least one of whom shall be from a county having a population of less than 75,000;

(c) one representative of the Division of Emergency Services and Homeland Security designated by the director; and

(d) one private citizen appointed by the governor with the consent of the Senate.

(2) (a) The term of each member of the board is four years.

(b) A member may be reappointed to one successive term.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) A member resigning from the board shall serve until a successor is appointed and qualified.

(3) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and travel expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

53-2-109. General duties of the Search and Rescue Advisory Board.

The duties of the Search and Rescue Advisory Board shall include:

- (1) conducting a board meeting at least once per quarter;
- (2) receiving applications for reimbursement of eligible expenses from county search and rescue operations by the end of the first quarter of each calendar year;
- (3) determining the reimbursement to be provided from the Search and Rescue Financial Assistance Program to each applicant;
- (4) standardizing the format and maintaining key search and rescue statistical data from each county within the state; and
- (5) disbursing funds accrued in the Search and Rescue Financial Assistance Program, created under Section 53-2-107, to eligible applicants until the program monies are depleted in that fiscal year.

53-2-201. Title.

This part is known as the "Emergency Management Assistance Compact."

53-2-202. Compact.

- (1) Article I. Purposes and Authorities.

(1) (a) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

(b) The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

- (c) This compact shall also provide for mutual cooperation in emergency-related

exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

(2) Article II. General Implementation.

(2) (a) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(b) The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

(c) On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

(3) Article III. Party State Responsibilities.

(3) (a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(i) review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack;

(ii) review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

(iii) develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

(iv) assist in warning communities adjacent to or crossing the state boundaries;

(v) protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

(vi) inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

(vii) provide, to the extent authorized by law, for temporary suspension of any statutes.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(i) a description of the emergency service function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

(ii) the amount and type of personnel, equipment, materials and supplies needed,

and a reasonable estimate of the length of time they will be needed; and

(iii) the specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

(4) Article IV. Limitations.

(4) (a) Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

(b) Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

(5) Article V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party

state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

(6) Article VI. Liability.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

(7) Article VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states.

Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

(8) Article VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

(9) Article IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

(10) Article X. Evacuation.

(10) (a) Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant shall be worked out and maintained between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur.

(b) Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors.

(c) Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

(11) Article XI. Implementation.

(11) (a) This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

(12) Article XII. Validity.

This act shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this act and the applicability thereof to other persons and circumstances shall not be affected thereby.

(13) Article XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18, United States Code.

53-2-301. Authority of governor to join compact.

The governor of Utah is authorized and directed to execute a compact on behalf of this state with any other state or states joining the Emergency Management Assistance Compact as provided in Section 53-2-202.

